

Assembly Bill No. 2303

CHAPTER 759

An act to add Section 451.5 to the Public Utilities Code, relating to public utilities.

[Approved by Governor September 24, 2004. Filed with Secretary of State September 24, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2303, Leno. Public utilities: executive bonuses.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities. Existing law authorizes the commission to fix just and reasonable rates and charges.

This bill would require that any expense resulting from a bonus paid to an executive officer, as defined, of a public utility that has ceased to pay its debts in the ordinary course of business, be borne by the shareholders of the public utility and would prohibit any expense from being recovered in rates. The bill would exempt from these requirements a bonus that is specifically defined in a standard employee compensation contract.

(2) Under existing law, a violation of the Public Utilities Act or an order of the commission is a crime.

Because certain provisions of this bill would be a part of the act and a violation of those provisions would be a crime, this bill would impose a state-mandated local program by creating a new crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 451.5 is added to the Public Utilities Code, to read:

451.5. (a) Any expense resulting from a bonus paid to an executive officer of a public utility that has ceased to pay its debts in the ordinary course of business shall not be recoverable either directly or indirectly in rates and shall be borne exclusively by the shareholders of the public utility. This prohibition shall be operative for a period of no less than two

years after the public utility resumes paying its debts in the ordinary course of business, and shall be operative for any additional time period as determined by the commission.

(b) The requirements of subdivision (a) do not apply to a bonus that is specifically defined in a standard employee compensation contract.

(c) For purposes of this section, “executive officer” means any person who performs policy making functions and is employed by the public utility subject to the approval of the board of directors, and includes the president, secretary, treasurer, and any vice president in charge of a principal business unit, division, or function of the public utility.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

